Secrt. II-27—40,000—20-12-38.

Edn. J.P. H **(1939) Department.**

78 SERIES.

G.O. No. 2318 P. H

Dated 3 - 7 - 39

[Despatch Abstract]

Establishment - Public Health - Mangalore Municipality.- Accident caused by the Municipal Lorry - Payment of damages to the party by the Municipal Council - Sanctioned as a special case.

C.F. 36.

DEPARTMENT. 11097

Received 13 MAR 1939 19

Registered J/13/39 19

Subject Lr.no 7573 - 1Am 17/3/39

18 MAR 1939

Establishment -- Public Health -- Lorry driver -- accident -- damages paid -- sanction requested.

==========

ENCLOSURES.-

No.

Spare copies

C. No. 2709/B1/39.

Station Mangalore, *Dated the* 7th March 19 39

From (Name) Sri M. Narayana Shenoy, B. A., B. L.,

(Designation) Commissioner, Mangalore Municipality.

To The Secretary to the Government of Madras,

Local Administration Department.

Through The Chairman, Municipal Council, Mangalore.

Fort St.George, MADRAS.

Sir,

A sum of Rs.350 was paid as damages to the children of one Kaveri, a Fisherwoman by caste, on account of her death accidentally caused by the Municipal lorry S.K. No.770 when driven by its driver, Chinga, one of the Municipal lorry drivers who has since been dismissed from service. The payees had originally claimed a sum of Rs.1,000 through a suit notice and the Council after taking legal opinion in the matter considered it imperative to satisfy the parties by the payment

payment of a nominal sum of Rs.350 from the Municipal funds in its resolution No.52, dated the 30th May 1938, copy enclosed. P3 infra

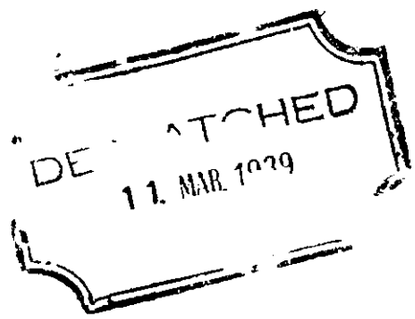
I request therefore that Government be pleased to sanction the amount of Rs.350 already incurred by the Municipality as an extraordinary expenditure. A sum of Rs.71-3-0 is in the provident fund account to the credit of the dismissed driver. A The amount will be adjusted to Municipal funds as a set off towards the damages paid by the Council from its funds. Copies of the audit objection and of the appellate court judgement in the Criminal prosecution against the driver, are enclosed. pp4-7 infra

Commissioner, M.M.

Forwarded:

7th MARCH 1939 | CHAIRMAN, M. C.

H.D.U.8/3/39.



Compd/

Extract from the Proceedings of the

Mangalore Municipal Council, dated the 30th May 1939.

====

x x x

Not Read. 52. Read (1) Council resolution No.51, dated the 18th October 1937, referring to M.R.Ry.B.Venkatarao Baliga, Avl., for opinion the registered notice of Vakil M.R.Ry. K. Rama Mohan Rao, Avl., on behalf of his clients Sheethu etc. claiming damages on account of the accident caused by Municipal lorry S.K.No.770 (2) the opinion of M.R.Ry. B. Venkatarao Baliga, Avl., and also letter dated the 6th February 1938 from M.R.Ry. K. RamaMohan Rao, Avl., regarding payment of a substantial sum to his clients.

Without prejudice to the right of the council to contest the claim, the Commissioner is authorised to pay a sum of Rs.350 as compensation if the parties are willing to accept the same in full satisfaction of the claim.

x x x

Sd/B.Venkatarao Baliga,
Chairman, M.C.

/True Extract/

Municipal Office, Mangalore, |

Dated the 7th March 1939. | Commissioner 31/3/39 M.M.

Compd/ DEC 11

Extract from Audit objection statement for the half year ending 30th September 1938.

---

48. Vr.278/6-38.

p.2 ante Damages sanctioned in C.R.No.52 dated 30.5.1935 - the children of a woman whose death was caused by Municipal lorry No.S.K.770, while driven by driver Chinga. - Rs.350/-.

On 8-5-1937 the Municipal lorry driven by the driver (pay Rs.23/- per month) dashed against the woman and knocked her down and as a result died next day in the hospital. The judgement dated 31.7.1937 of the Sub Divisional I Class Magistrate in C.C.No.31/1937 Mangalore shows as follows:-

"The lorry driver drove the lorry recklessly and at a speed and in a manner dangerous to the public, having regard to the traffic on the Market Road. xx xx xx The accused should have been very cautious, xx xx particularly since the lorry was unsafe to be used on the road - its brakes being inefficient and its steering being unsteady and dangerous". "What is more, the accused was found drunk at the time. This adds gravity to the offence". The lorry driver was sentenced to 6 months rigorous imprisonment and 7 weeks simple imprisonment. On the appeal of the lorry driver against this order, the judgement of the Sessions Court in this case (Criminal Appeal No.23/1937) dated 29.9.1937 ran as follows:- p.6-infra

"It is unfortunate that his masters allowed the lorry driven by him to be in such a dangerous condition as deposed by the Inspector of Motor Vehicles. The general condition of the vehicle was such that it was unsafe to be used on the road. The Municipal authorites should have interdicted its use on the road when it was in such a bad condition. I hope in future at least they will take care to see that none of the motor vehicles under their care which are dangerous to the public are allowed to run as follows."

Thus it is clear that the accident occured due partly to the bad condition of the lorry and partly to the reckless driving and the drunken mood of the driver.

It may be explained as to why the amount cannot be recovered from:

(a) the persons responsible for allowing, as the learned judge has observed, that lorry which was in such a dangerous condition to run on roads as well as,

(b) the driver to whom Provident Fund dues are yet to be paid.

The employee was dismissed on 1.10.1937.

In the absence of recovery from the persons concerned, sanction of Government is necessary for this extraordinary payment.

x x x

Sd/- A. V. Sabeshan.
Lt. Inspector of L.F.Accounts
23.12.1938.

/TRUE EXTRACT/

Municipal Office, Mangalore,
Dated the 10th March 1939.

Commissioner, M.M.

Compd/ 10.3.39.

In the Court of the Sessions Judge of South Kanara.

Wednesday the 29th Day of September 1937.

Present:- Mir A m i r u d d i n, Esq., Bar-at-law, M.A., LL.B.,

Sessions Judge.

Judgement in Criminal Appeal No.23 of 1937.

From what Court the Appeal is preferred .. Sub-Divl.I.Cl.Magistrate Mangalore.

No. of the case in that Court .. .. C.C.No.31/1937.

Number of the Appeal .. ..C.A.No.23/1937.

Name & description of the Appellant .. Sanna Chinga, son of Karde, residing in Attavar village.

The sentence and law under which it was imposed in the lower court) (1) R.I. for 6 months under Sec.304A I.P.C. (2) Fine of Rs.40/- under Sec. 5 of the Motor Vehicles Act or in default S.I. for one month and (3) Fine of Rs.25/- under sec (6) read with section 16 of the M.V.Act or in default S.I. for three weeks.

Whether confirmed, modified or reversed; and, if modified, the modification. Sentence under Sec.304-A I.P.C is reduced to R.I. for four months and that under sections 6 and 16 of the M.V.Act is confirmed. Sentence under Sec.5 of the M.V. Act is set aside and the conviction under that section is confirmed.

Date - of, or on which.						
Presentation.	Filing.	Notice issued by Court to appear.	Bail bond if Appellent has been let out on bail.	Appellant ordered to appear.	Hearing.	Order.
5-8-1937.	5.8.37.	6.8.37.	--	9.9.37.	21.9.37.	29.9.37

This appeal coming on for hearing before me, upon perusing the petition of appeal and the record of the evidence and proceedings and upon considering the same after hearing Mr. G. Somasheakara Rao, for the appellant and the Public Prosecutor contra, I do adjudge and pass the following

JUDGMENT.

xx xx xx

7. The learned Magistrate has sentenced the appellant to undergo rigorous imprisonment for six months under section 304A

I.P.C. The appellant was an employee of the Mangalore Municipality It is unfortunate that his masters allowed the lorry driven by him to be in such a dangerous state as deposed to by P.W.-13 the Inspector of Motor Vehicles. The foot and hand brakes of the lorry were not efficient, the steering was unsteady and its parts in a dangerous condition. The general condition of the vehicle was such, that it was unsafe to be used on the road. The Municipal authorities should have interdicted its use on the road when it was in such a bad condition. I hope in future at least they will take care to see that none of the motor vehicles under their control which are dangerous to the public are allowed to run on the roads. It is the duty of every motor owner to see to this.

8. xx xx

Clearly the appellant drove the motor lorry without the necessary license. He has been sentenced for this offence to pay a fine of Rs.25/-. It is surprising that this man was without a license from 6.1.1937 that is, more than four months prior to the accident.

xx xx xx

Sd/- Mir Amiruddin,
13-10-1937.
Sessions Judge.

/True extract/

Sd/- xxx xxx
Head clerk.
Mangalore Divisional Office.

/ TRUE COPY /

Municipal Office, Mangalore,
Dated the 8th March 1939.

Commissioner, M.M.

Compd/ 9/3.

25
7/4

Edw. and P.H.

C. No. 11097 From the Commr., Mangalore Mty., C. No. 2709/B1/39 dt 7.3.39

Estt - P.H. - Mangalore Mty. -
Chinga, Mt. lorry driver - Payment of damages to the party killed by the driver in an accident - Audit objection.

The following Statement occurs in the judgment of the Learned Court:-
H.E.A. Cr. P. Cf.

Memo: 11097 - IE, P.H. dt 15.4.1939.

The Commr., Mangalore Mty is requested to submit a detailed report ~~containing specific information on the following points:-~~ on the ~~fact~~

— As to why the lorry which was in such a bad ~~and~~ condition as deposed by the Inspector of Motor Vehicles was continued in service;

~~i)~~ ii) ~~why it was allowed to be~~ driven by a driver who was in a drunken mood; ~~and~~

~~iii) who were responsible for the above state of affairs.~~

Dpd. by [illegible] 1814
Dated 193

The Commr., Mangalore Mty.
Thro the C.M.C.

25/4/39

13/4/39.

C.F. 80.

DEPARTMENT.

SECRETARY TO GOVT. LOCAL ADMINISTRATION 22 APR 1939

Received ..... 19 Registered 26 APR 1939 19

12358

Subject. 1662

Establishment -- Public Health - Lorry driver -- accident damages paid -- Sanction of -- sought for.

Reference:- This Office reference C.No.2709/B1/39 dated the 6th March 1939.

======

ENCLOSURES.
No.
Spare copies

C. No. 2709/B1/39

Station Mangalore, , *Dated the* 17th April 19 39.

From (Name) Sri M. Narayana Shenoy, B. A., B. L.,

(Designation) Commissioner, Mangalore Municipality.

To The Secretary to the Government of Madras,

Through The Chairman, Municipal Council, Mangalore.

Local Administration Department. Fort St.George, MADRAS.

Sir,

I request that early orders may be passed on the reference noted above.

Commissioner, M.M.

Forwarded:

17th April 1939. Chairman, M.C.

Compd/ 18/4

HDU 18/4/39

DESPATCHED 20. APR. 1939

DEPARTMENT

Received 9 - JUN 1939 19 . Registered 19 .

22699

Subject.

Establishment - Public Health - Mangalore Municipality Chinga, Municipal lorry driver - payment of damages to the party killed by the driver in an accident - Audit objection.

=======

Reference:- Government Memo No.11097-1 E1, P.H., dated the 15th April 1939.

=======

Enclosures

No.

Spare copies

C.No. 5155/B1/39

Station Mangalore, , Dated the 1st June 19 39.

From (Name) Sri M. Narayana Shenoy, B. A., B. L.,

(Designation) Commissioner, Mangalore Municipality.

To The Secretary to the Government of Madras,

Through The Chairman, Municipal Council, Mangalore.

Education & Public Health Department.

Fort St. George, M a d r a s.

Sir,

The accident caused to lorry S.K.No.770 cannot be said to be wholly due to the unsatisfactory condition of the lorry. Its driver who was convicted by the Court and dismissed from service was in a drunken state while driving it on the day of the accident. He was evidently reckless and irresponsible.

No doubt the ~~Break~~ Brake Inspector had deposed in the Court as to the unhappy state of the lorry. But it must be remembered that

remembered that he had examined the lorry and came to that conclusion after the accident in which it was badly damaged and wrecked.

It cannot be doubted that the Municipality is by maintaining its lorries in proper order. Annually an amount to a tune of about Rs.3,000 is spent for the repairs etc of the lorries and already there is a growing feeling that too much money is spent in this direction. Of late every Municipal lorry is periodically inspected by the Break Inspector and certificate of fitness granted by him so that there is very little scope for accidents of this type in future.

Commissioner, M.M.

F o r w a r d e d:

1st June 1939. Chairman, M.C.

Compd/

DESPATCHED
7 - JUN 1939

Edw. and P.H. Dept.

C.No. 11097 from the Commr., Mangalore Mty., C.No. 2709/B/39 dated 7.3.1939.

E-stt - P.H. - Mangalore Mty. -

Chinga, Ml. lorry driver - Damages to the party killed by the lorry in an accident - Audit objection.

Please see the audit objection on pp 4-5 c.f. and the letter of the Commr. Mangalore Mty. on pp 1-2 c.f. The expr objected to relates to the damages of Rs. 350/- paid by the Ml. Cl. to the heirs of one Kaveri, a fisherwoman who was killed by Chinga, a municipal lorry driver by running over her the lorry S.K. No. 770. The Commr. solicits the sanction of Govt. for condoning the above expr.

pp 4-5 c.f.

2. The arguments in favour of the objection being upheld are not to be slightly disregarded particularly in

'A' on p. 4 c.f.

view of the opinion of the Sessions Judge who condemned though mildly the municipal authorities responsible for allowing a lorry which was in a dangerous condition to be driven in public streets. Whereas

'A' on p. 2 c.f.

the Commr. accepts that the amount of Rs. 71/9/- in the Provident Fund Account of the driver will be adjusted to the

and municipal funds as a set off towards the damages paid by the Co., he is not willing to take up the other suggestion of recovering the whole amount from those responsible for the accident and the consequential financial loss to the Council including the driver. It is alleged to be noted that the Inspector of Motor Vehicles has certified that the general condition of the lorry was such as to be unsafe to be used on the road. The matter is one which seems to be ~~one~~ The matter seems to be one which requires investigation. If, however, a lenient view is taken, the proposal of the Commr. to condone the expr. may be sanctioned subject to the condition that the amount standing in the Provident Fund Account of the driver is adjusted to the municipal funds ~~of the L.F.A. as suggested~~.

B' on p. 50 ante.

A' on p. 49 ante.

Normally the driver should not be made a scape goat. He cannot be blamed for being given a rotten vehicle to drive.

SMy 3/4

27/3/37

Not only the driver but the municipal authorities also are to blame, in fact more and such reasonable time he amount should be recovered from those responsible for the neglect of the lorry. The Commr. may also be asked to show cause why this should not be done besides adjusting

3/14

Ker P. F. amount of the loss, driver
For orders.

30/3

In this case the accident was due (i) to the unroad-worthiness of the vehicle.
(ii) The driver being drunk.

An enquiry is necessary to ascertain how such a vehicle was continued in service. After that is done the responsibility ~~damages~~ may be assessed. A full report may be called for.

SRY
3/4/39

A draft memo is submitted below for approval.

For orders.

SRW
3/4/39.

SRY
13/4/39

S.

6/4

6/4/39

Read Memo 11097-I2/PH dt 15.4.39 and C.no 16462. from the Comm? Mangalore mtg. ℔ 8 C7

C.no 2709/B1/39 dt 17.4.39 ℔ 9 C7.

Please see Memo on ℔ 8 C7 and the Reminder from the Comm? on ℔ 9 C7. ~~Presumably~~ The reminder was despatched before the Memo reached the Municipal Office Mangalore. The reply to the Memo from the Comm? may therefore be awaited

12/6/39

SRK
16/5

C.no. 22899 - From the Comm?, Mangalore Munsiff, letter No. C 5155/B1/29 dated 1.6.39 ℔ 1 of

~~The reply of the Comm?, Mangalore Munsiff is not convincing. A detailed report may be called for~~ A draft order submitted for approval.

SRK
12/6/39

12/6/39

SRK may see

SRK
13/6/39

12/6

12/6

EXAMINED
844
19 JUN 1939
LOCAL FUND ACCOUNTS

97

Separate No. 11097-I2/PH

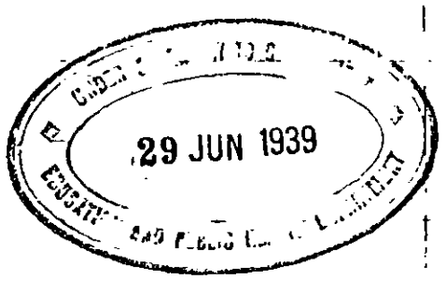
ASSISTANT EXAMINER'S OFFICE:

S e/e n.

28/6/39

E.& P.H.Deptt.U.O.

Ext. No. 844-1
29.6.39



E & PH Deptt

The draft order may now issue

25842

20/6/39

30/1

53/317

DRAFT FOR APPROVAL

C.F. 16.
Edn. & P.H. Dept.

	Date.	Initials.
When received for fair copying		
When copied	15.7.39	
When examined		
When signed		
When despatched		

SUBJECT:— Establishment – P.H. – Mangalore Municipality – accident caused by the Mcl. Lorry Payment of damages to the party by the Mcl. cl. – Sanctioned. As a Special Case

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

$1-7 Cy C No. 11097 From the Comm^r, Mangalore Mcl. C No. 2709/P1/39 dated 7-3- 1939.

$10-11 Cy C " 22697 " -do- C " 5155/P1/39 " 1-6- 1939.

" _____ " _____ " _____ " _____ 19____.

Order / Resolution — Ms. / Rout: No. 2318 PH, dated 3.7. 1939.

Df

LOCAL FUNDS AUDIT ESTABLISHMENT OF LOCAL FUNDS ACCOUNTS
29 JUN 1939
TRIVANDRUM

Dept. Dy. No. 2318/417/39

The Comm^r, Mangalore Municipality, thro the Dir^r of L.F. Accts.

The action of the Mcl. cl. Mangalore, in having to pay a sum of Rs 350/- as damages to the children of the deceased Kaveri a fisherwoman run over by the Mcl. Lorry S.K. No. 770 driven by the Driver Chinga, is approved. As a Spl Case.

2. Govt trust that in future the Mcpl. authorities will keep a more careful watch over the road worthiness of their vehicles.

(by) 12/6/39

Cy 12/6

SRM 13/6/39 Sec 14/6/39